

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAVIER NUNEZ,

Plaintiff,

-against-

MARK SILBER; ELI SILBER; NICOLE
FRASER; GUTMAN, MINTE, BAKER &
SONNENFELDT, LLC,

Defendants.

23-CV-8462 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is appearing *pro se* and *in forma pauperis* (“IFP”), brings this action under the Court’s diversity of citizenship jurisdiction. Plaintiff has previously submitted to this court a similar complaint alleging that Defendants unlawfully evicted him and his father from a Manhattan apartment. That case is presently pending before the Court under docket number 23-CV-625. As this complaint raises the same claims, no useful purpose would be served by litigating this duplicate lawsuit. Therefore, this complaint is dismissed without prejudice to the case pending under 23-CV-0625 (LTS).¹

CONCLUSION

Petitioner’s filing is dismissed as duplicative of 1:23-CV-0625 (LTS).

¹ Plaintiff has filed other complaints about these events. *See Nunez v. Silber*, ECF 1:18-CV-0892, 2 (CM) (S.D.N.Y. Apr. 9, 2018) (dismissing complaint for lack of subject matter jurisdiction and failure to state a claim), No. 18-1116 (2d Cir. July 16, 2018) (dismissing appeal because it “lacks an arguable basis either in law or in fact”); *Nunez v. Silber*, ECF 1:18-CV-6821, 2 (LLS) (S.D.N.Y. Oct. 30, 2018) (dismissing complaint for lack of subject matter jurisdiction and failure to state a claim), No. 18-3385 (2d Cir. Apr. 2, 2019) (dismissing appeal because it “lacks an arguable basis either in law or in fact”); *Nunez v. Silber*, ECF 1:22-CV-8416, 6 (LTS) (S.D.N.Y. Feb. 22, 2023) (dismissing complaint for lack of subject matter jurisdiction), *appeal pending* (2d Cir.).

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is directed to enter judgment in this case.

SO ORDERED.

Dated: October 16, 2023
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge